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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

In re:	§	
	§	
HIGHLAND CAPITAL	§	Chapter 11
MANAGEMENT, L.P.	§	
	§	Case No. 19-34054-sgj11
Debtor.	§	

**HUNTER MOUNTAIN INVESTMENT TRUST'S OBJECTIONS TO THE HIGHLAND
PARTIES' EXHIBIT AND WITNESS LIST**

Movant Hunter Mountain Investment Trust ("HMIT") files these written objections ("Objections") to The Highland Parties' Witness and Exhibit List with Respect to Evidentiary Hearing to be Held on June 8, 2023 [Doc. 3817] ("Highland Parties' Witness and Exhibit List") regarding HMIT's Emergency Motion for Leave to File Verified

Adversary Proceeding [Doc. 3699] and Supplement to Emergency Motion for Leave to File Verified Adversary Proceeding [Doc. 3760] (together the “Motion for Leave”).¹

HMIT’s Objections to the Highland Parties’ Witnesses and Exhibit List in its Entirety

HMIT has objected and continues to object to the evidentiary nature of the June 8, 2023, hearing (“June 8, Hearing”) on HMIT’s Motion for Leave, and HMIT does not waive its substantive and procedural rights or objections, including, but not limited to, HMIT’s objections to the evidentiary format of the Motion for Leave Hearing, including as ordered by the Court’s May 22, 2023, Order. HMIT’s has previously objected to an evidentiary hearing on “colorability,” and to applying an evidentiary burden of proof to HMIT’s Motion for Leave.² Further, HMIT objects that all of the Highland Parties’ proposed

¹ This instrument and HMIT’s Objections are filed subject to and without waiving any of HMIT’s substantive and procedural rights including, but not limited to, HMIT’s objections to the evidentiary format of the Motion for Leave Hearing, including as ordered by the Court’s May 22, 2023, Order Pertaining to the Hearing on Hunter Mountain Investment Trust’s Motion for Leave to File Adversary Proceeding [DE ## 3699 & 3760] [Doc. 3787] (“May 22 Order”). HMIT’s prior objections to an evidentiary hearing on “colorability,” and applying an evidentiary burden of proof to HMIT’s Motion for Leave, were asserted by HMIT during the April 24, 2023, Status Conference, and were further set forth in HMIT’S Reply Brief in Support of its Motion for Leave [Doc. 3785] and during the May 26, 2023, hearing regarding Hunter Mountain Investment Trust’s Emergency Motion for Expedited Discovery or, Alternatively, for Continuance of the June 8, 2023 Hearing [Doc 3788], all of which objections are incorporated herein for all purposes (“HMIT’s Evidentiary Hearing Objections”).

Subject to and without waiving HMIT’s Evidentiary Hearing Objections, and based on the Court’s rulings relating to the evidentiary format for the Motion for Leave Hearing, HMIT also files this instrument and these Objections subject to and without waiving HMIT’s procedural and substantive rights relating to HMIT’s efforts to take discovery in advance of the Motion for Leave Hearing including, but not limited to, the discovery HMIT requested in Hunter Mountain Investment Trust’s Emergency Motion for Expedited Discovery or, Alternatively, for Continuance of June 8, 2023 Hearing [Doc. 3791] to the extent it was denied in the Court’s May 26, 2023, Order Regarding Hunter Mountain Investment Trust’s Emergency Motion for Expedited Discovery or, Alternatively, for Continuance of the June 8, 2023 Hearing [Dkt. Nos. 3788 and 3791] [Doc. 3800].

² See HMIT’s Evidentiary Hearing Objections, which are incorporated herein in their entirety by reference.

witnesses and exhibits identified in the Highland Parties' Witness and Exhibit List are irrelevant because the "colorability" issue as to HMIT's proposed complaint should be decided based on a pleadings standard, rather than an evidentiary standard, that is less stringent than that applied under a Rule 12(b)(6) motion. *See In re Deepwater Horizon*, 732 F.3d 326, 340 (5th Cir. 2013) (quoting *Richardson v. United States*, 468 U.S. 317, 326 n. 6 (1984)); *Louisiana World Exposition v. Fed. Ins. Co.*, 858 F.2d 233, 252-53 and n. 15 (5th Cir. 1988).

**HMIT's Additional Objections to Specific Exhibits in the Highland Parties'
Witness and Exhibit List**

Subject to and without waiving the foregoing, HMIT asserts the following additional objections to specific exhibits listed in the Highland Parties' Witness and Exhibit List:

No.	EXHIBIT	HMIT ADDITIONAL OBJECTION TO SPECIFIC EXHIBITS
1.	<i>Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (As Modified)</i> [Docket No. 1808]	• FRE 401, 402 – Relevance
2.	<i>Order (I) Confirming the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (As Modified) and (II) Granting Related Relief</i> [Docket No. 1943]	• FRE 401, 402 – Relevance
3.	<i>Verified Petition to Take Deposition Before Suit and Seek Documents</i> filed on July 22, 2021 (Cause No. DC-21-09534)	• FRE 401, 402 – Relevance • FRE 803 - Hearsay
4.	<i>Verified Amended Petition to Take Deposition Before Suit and Seek Documents</i> filed on May 2, 2022 (Cause No. DC-21-09534)	• FRE 401, 402 – Relevance • FRE 803 - Hearsay
5.	<i>Declaration of James Dondero</i> dated May 31, 2022 (Cause No. DC-21-09534)	• FRE 401, 402 – Relevance
6.	<i>Memorandum Opinion and Order Granting</i>	• FRE 401, 402 – Relevance • FRE 803 - Hearsay

	<i>James Dondero's Motion to Remand Adversary Proceeding to State Court, Denying Fee Reimbursement Request, and Related Rulings</i> [Adv. Pro. No. 21-03051, Docket No. 23]	
7.	Order dated June 1, 2022, denying First Rule 202 Petition and dismissing case (Cause No. DC-21-09534)	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 803 - Hearsay
8.	<i>Petitioner Hunter Mountain Investment Trust's Verified Rule 202 Petition</i> filed on January 20, 2023 (Cause No. DC-23-01004)	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance
9.	<i>Declaration of James Dondero</i> (with Exhibit 1) dated February 15, 2023 (Cause No. DC-23-01004)	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance
10.	Order dated March 8, 2023, denying Second Rule 202 Petition and dismissing case (Cause No. DC-23-01004)	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance
11.	Email sent by James Dondero to James Seery on December 17, 2020	
12.	James Dondero's resignation letters dated January 9, 2020	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance
13.	James Dondero's October 9, 2020 resignation e-mail	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance
14.	Advisors' October 16, 2020 letter to James P. Seery	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 803 - Hearsay
15.	<i>Memorandum Opinion and Order Granting in Part Plaintiff's Motion to Hold James Dondero in Civil Contempt of Court for Alleged Violation of TRO</i> entered on June 7, 2021 [Adv. Pro. No. 20-03190, Docket No. 190]	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 403 • FRE 803 - Hearsay
16.	<i>Order (A) Approving the Adequacy of the Disclosure Statement; (B) Scheduling a Hearing to Confirm the Fifth Amended Plan of Reorganization; (C) Establishing Deadline for Filing Objections to Confirmation of Plan; (D) Approving Form of Ballots, Voting Deadline and Solicitation Procedures; and (E) Approving Form</i>	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance

	<i>and Manner of Notice</i> entered November 24, 2020 [Docket No. 1476]	
17.	Written notices of termination of shared services agreements with NexPoint Advisors, L.P. and Highland Capital Management Advisors, L.P., dated November 30, 2020	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 803 - Hearsay
18.	Demand Letter sent to James Dondero on December 3, 2020	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 403 • FRE 803 - Hearsay
19.	Demand Letter sent to HCMFA on December 3, 2020	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 403 • FRE 803 - Hearsay
20.	Demand Letter sent to HCRE on December 3, 2020	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 403 • FRE 803 - Hearsay
21.	Demand Letter sent to HCMS on December 3, 2020	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 403 • FRE 803 - Hearsay
22.	James Dondero’s text message to James Seery sent on December 3, 2020	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 403
23.	<i>Order Granting Debtor’s Motion for a Temporary Restraining Order Against James Dondero</i> entered December 10, 2020 [Adv. Pro. No. 20-03190, Docket No. 10]	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 403 • FRE 803 - Hearsay
24.	Transcript of the hearing held on December 16, 2020	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 403
25.	Article: <i>MGM Leads 2020 Media Acquisition Targets as the Entertainment World Splits Into Haves and Have-Nots</i> (January 26, 2020)	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 803 - Hearsay • FRE 901 - Authenticity
26.	Article: <i>It’s ‘No Time to Die’ for Hedge-Fund</i>	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance

	<i>Manager Ulrich's Big James Bond Bet</i> (Oct. 11, 2020)	<ul style="list-style-type: none"> • FRE 803 - Hearsay • FRE 901 - Authenticity
27.	Article: <i>MGM Holdings, Studio Behind 'James Bond,' Explores a Sale</i> (Dec. 21, 2020)	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 803 - Hearsay • FRE 901 - Authenticity
28.	Article: <i>The world is not enough! Amazon joins other streaming services in £4bn bidding war for Bond films as MGM considers selling back catalogue</i> (Dec. 23, 2020)	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 803 - Hearsay • FRE 901 - Authenticity
29.	Article: <i>Could Apple Be Ready to Gobble Up MGM Studios Entirely</i> (Dec. 24, 2020)	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 803 - Hearsay • FRE 901 - Authenticity
30.	Article: <i>MGM Is For Sale (Again)</i> (January 15, 2021)	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 803 - Hearsay • FRE 901 - Authenticity
31.	Email from James Seery to the other Independent Directors on December 8, 2020	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 803 - Hearsay • FRE 901 - Authenticity
31-a.	Highland CLO Funding Ltd.'s Statement of Financial Position as of November 30, 2020 [REDACTED]	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 106 – Incomplete • Improper Redaction
32.	<i>James Dondero's Objection to Debtor's Motion for Entry of an Order Approving Settlement with HarbourVest</i> [Docket No. 1697]	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 803 - Hearsay
33.	Letter from the Texas State Securities Board to Highland Capital Management, L.P., dated May 9, 2023	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 403 • FRE 803 - Hearsay • FRE 901 - Authenticity
34.	Article: <i>Amazon's \$8.45 Billion Deal for MGM is Historic But Feels Mundane</i> (May 26, 2021)	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance

35.	Letter from Davor Rukavina, to counsel to NexPoint, to Stonehill Capital Partners, dated October 14, 2022	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 403 • FRE 803 - Hearsay • FRE 901 - Authenticity
36.	<i>Order Approving Debtor's Motion Under Bankruptcy Code Sections 105(a) and 363(b) Authorizing Retention of James P. Seery, Jr., as Chief Executive Officer, Chief Restructuring Officer and Foreign Representative Nunc Pro Tunc to March 15, 2020 entered on July 16, 2020 [Docket No. 854]</i>	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance
37.	<i>Disclosure Statement for the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. [Docket No. 1473]</i>	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance
38.	<i>Claimant Trust Agreement, effective as of August 11, 2021</i>	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance
39.	<i>August 26, 2021 Minutes of the Meeting of the Claimant Trust Oversight Board of the Highland Claimant Trust [REDACTED]</i>	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 106 – Incomplete • Improper Redaction • FRE 803 - Hearsay • FRE 901 - Authenticity
40.	<i>August 30, 2021 Minutes of the Meeting of the Claimant Trust Oversight Board of the Highland Claimant Trust [REDACTED]</i>	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 106 – Incomplete • Improper Redaction • FRE 803 - Hearsay • FRE 901 - Authenticity
41.	<i>Memorandum of Agreement executed December 6, 2021 [REDACTED]</i>	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 106 – Incomplete • Improper Redaction
42.	<i>Assignment Agreement, effective as of October 8, 2021</i>	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance
43.	Transcript of the status conference held on April 24, 2023	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance
44.	<i>Litigation Sub-Trust Agreement, effective as of</i>	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance

	August 16, 2021	
45.	<i>Original Complaint</i> , Case No. 3:21-cv-00842-B, Docket No. 1 (N.D. Tex. April 12, 2021)	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 403 • FRE 803 - Hearsay
46.	<i>Debtor's Notice of Filing of Plan Supplement to the Fifth Amended Plan of Reorganization of Highland Capital Management, L.P. (As Modified)</i> [Docket No. 1875]	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance
47.	<i>Order Approving Settlement with Official Committee of Unsecured Creditors Regarding Governance of the Debtor and Procedures for Operations in the Ordinary Course</i> [Docket No. 339]	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 803 - Hearsay
48.	<i>Notice of Debtor's Amended Operating Protocols</i> [Docket No. 466]	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 803 - Hearsay
49.	<i>Partnership Interest Purchase Agreement Among The Dugaboy Investment Trust, The Mark and Pamela Okada Family Trust-Exempt Trust #1, The Mark and Pamela Okada Family Trust-Exempt Trust /42, Mark K. Okada, and Hunter Mountain Investment Trust Dated as of December 24, 2015</i>	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 403
50.	<i>Hunter Mountain Investment Trust's Secured Promissory Note to Highland Capital Management, LP (\$63 Million)</i>	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 403
51.	<i>Hunter Mountain Investment Trust's Secured Promissory Note to Dugaboy (\$62.6 Million)</i>	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 403
52.	<i>Hunter Mountain Investment Trust's Secured Promissory Note to Mark Okada (\$16.3 Million)</i>	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 403
53.	<i>Hunter Mountain Investment Trust's Secured Promissory Note to The Mark and Pamela Okada Family Trust-Exempt Trust #1 (\$3.2 Million)</i>	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 403

54.	Hunter Mountain Investment Trust's <i>Secured Promissory Note</i> to The Mark and Pamela Okada Family Trust-Exempt Trust #2 (\$1.4 Million)	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 403
55.	Hunter Mountain Investment Trust Demand Letter, dated May 3, 2021	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 403
56.	Transcript of the hearing held on May 26, 2023	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance
57.	<i>Order Pertaining to the Hearing on Hunter Mountain Investment Trust's Motion for Leave to File Adversary Proceeding [DE ## 3699 & 3760] (Docket No. 3787)</i>	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance
58.	<i>Order Regarding Hunter Mountain Investment Trust's Emergency Motion for Expedited Discovery or, Alternatively, for Continuance of the June 8, 2023 Hearing (Docket No. 3800)</i>	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance
59.	Email chain dated October 9, 2021 – November 5, 2021 re Incentive Compensation Proposal	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 106 – Incomplete • Improper Redaction • FRE 803 - Hearsay • FRE 901 - Authenticity
60.	Highland CLO Funding, Ltd. <i>Annual Report and Audited Financial Statements for the Financial Year Ended 31 December 2020</i>	<ul style="list-style-type: none"> • FRE 401, 402 – Relevance • FRE 803 - Hearsay

HMIT reserves the right to amend and/or supplement this instrument and
HMIT's objections to the Highland Parties' Witness and Exhibit.

Respectfully Submitted,

**PARSONS MCENTIRE MCCLEARY
PLLC**

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*Attorneys for Hunter Mountain
Investment Trust*

CERTIFICATE OF SERVICE

I certify that on the 7th day of June 2023, a true and correct copy of the foregoing Motion was served on counsel of record for all of the Respondents.

/s/ Sawnie A. McEntire
Sawnie A. McEntire